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Supreme Court, U.S.
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No.

IN THE

Supreme Court of the United States

Supreme Court, U.S.
FILED
FEB 26 1998
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October Term 1997

CHARLES A. EIDSON,

PETITIONER

v.

SUPREME COURT OF FLORIDA
Hon. Judge William A. Wilkes, Referee,
Fourth Judicial Circuit
Loretta C. O'Keeffee, Agent/Attorney
Unauthorized Practice of Law Committee
The Supreme Court of Florida

On Petition for Writ of PROHIBITION
To The SUPREME COURT OF FLORIDA

PETITION FOR WRIT OF PROHIBITION

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38 pp

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INTRODUCTORY STATEMENT

Charles A. Eidson ("Petitioner"), representing self, an interested party by virtue of being named as defendant in the underlying cause, The Unauthorized Practice of Law, The Supreme Court of Florida v. Charles A. Eidson, Case No 86,514, hereby petitions this Court to issue a Writ of Prohibition, directing Respondent, THE FLORIDA SUPREME COURT, and respondent, Wilkes and Loretta C. O'Keeffe, Branch UPL Counsel, to cease and desist all

activity in said case, to direct the court to discharge all claims and actions of the plaintiff for want of jurisdiction and to enjoin Respondents from further violations of the unalienable rights of Petitioner.

QUESTIONS PRESENTED

I. DOES THE FLORIDA SUPREME COURT HAVE CONSTITUTIONAL AUTHORITY TO FILE SUIT IN ITS OWN INFERIOR FLORIDA CIVIL COURTS?

II. ARE THE RULES OF FLORIDA SUPREME COURT GOVERNING THE PRACTICE OF LAW INVALID, BECAUSE THEY WERE ADOPTED PURSUANT TO AN UNCONSTI-TUTIONAL DELEGATION OF AUTHORITY BY THE COURT'S OWN LICENSED AGENTS, IN VIOLATOIN OF THE SEPARATION OF POWERS PRESCRIBED BY THE FLORIDA CONSTITUTION?

III. DOES THE FLORIDA CONSTITUTION GIVE THE FLORIDA SUPREME COURT PROSECUTORIAL AUTHORITY?

IV. IS LEGAL ADVICE FULLY PROTECTED SPEECH UNDER THE FIRST AMENDMENT AND, THEREFORE, NOT SUBJECT TO GOVERNMENT REGULATION?

V. DOES THE FLORIDA STATE SUPREME COURT VIOLATE PETITONER'S FIRST AMENDMENT RIGHT TO THE FREE EXERCISE OF HIS RELIGION WHEN IT APPLIES THE UNAUTHORIZED PRACTICE OF LAW STATUTE TO HIM IN HIS CHRISTIAN MINISTRY?

VI. ARE CITIZENS ARE DEPRIVED OF THEIR SIXTH AMENDMENT RIGHT TO REPRESENTATION BY COUNSEL WHEN THEY ARE FORCED TO ACCEPT STATE-SPONSORED AND CONTROLLED ATTORNEYS, RATHER THAN COUNSEL OF THEIR CHOICE IN CRIMINAL MATTERS.

RESPONDENTS

1. The Supreme Court of Florida, 500 So. Duval Street, Tallahassee, FL 32399-1925

2. Hon. Judge William A. Wilkes, Referee, Fourth Judicial Circuit, Duval County, Jacksonville, FL

3. Loretta C. O'Keeffee, Agent/Attorney for the Unauthorized Practice of Law Committee of The Supreme Court of Florida, Suite C-49, Tampa Airport, Marriott Hotel, Tampa, FL 33607

PETITION FOR WRIT OF PROHIBITION
STATEMENT OF JURISDICTION

Petitioner requests relief from this Court pursuant to the "All Writs Act," 28 U.S.C. §1651. Petition is filed pursuant to Rule 20 of the Rules of the Supreme Court of the United States of America. Petitioner invokes the Court's original jurisdiction under Article III of the Constitution for the United States of America pursuant to Rule 17 of the Rules of the Supreme Court of the United States of America.

RELIEF REQUESTED

There is no other judicial remedy available to Petitioner. Petitioner requests that a Writ of Prohibition issue from this Court directed to Respondents, Florida Supreme Court, its agent, the Unauthorized Practice of Law Committee of the Supreme Court of Florida, and Judge William A. Wilkes ("Wilkes"), Referee, Fourth Judicial Circuit, Jacksonville, Florida. Petitioner seeks a Writ prohibiting Respondents from taking any further action in the underlying case and requiring respondents to cease and desist all activity in said case, and to direct the inferior court to dismiss all claims and charges against Petitioner for want of jurisdiction.

REASONS FOR GRANTING THE WRIT

Exceptional circumstances warrant the exercise of the Court's discretionary powers. Adequate relief cannot be obtained in any other forum or from any other court.

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Conflict of Interest. There is such a clear and undeniable conflict of interest and such self-dealing that no thinking person would deny that the very action of Respondents subverts the judicial system and throws it and the judiciary into disrepute. The Respondent, Florida Supreme Court has absolute power and authority over the inferior court of that State. It can issue writs of mandamus or prohibition to the very court where it is plaintiff. It can censure, sanction, transfer, remove and otherwise discipline the very judges whose function it is to decide on the merits of the its case. It is absurd and totally irrational for the plaintiff to be in such a position, superior in all respects to the very court from which it is seeking relief.

Respondent, Wilkes, Referee, Fourth Circuit, was and is licensed by Respondent, Florida Supreme Court, which has the absolute authority and power to revoke the license of the judge. It has the power to initiate and prosecute disciplinary actions against him, to begin impeachment proceedings against him, to reassign him to viscinages within the State of Florida that would constitute a hardship for him and to apply any and all control determined necessary by the Respondent to control the outcome of its case.

The agent for the Florida Supreme Court who is titularly bringing the suit is Loretta C. O'Keeffee, Branch Unauthorized Practice Counsel ("O'Keeffee"). O'Keeffee is also licensed by and subject to the control of Respondent, Florida Supreme Court. Furthermore, O'Keeffee, Wilkes and

members of Respondent Florida Supreme Court are members of the same fraternal organization, the Florida State Bar Association, another organization totally under the control of Respondent Florida Supreme Court. Respondent Wilkes has no authority over Respondent Florida Supreme Court. If Petitioner were to counterclaim against Respondent, Wilkes would have no authority to enjoin that court, could not award damages against it, and could not issue a declaratory judgment enforceable against it. (What would the Florida Supreme Court do if such a result were achieved, appeal to itself?) There is no plainer demonstration of the total lack of jurisdiction of Wilkes over this action. Such an absence of judicial authority over one of the parties to the case, coupled with the overwhelming conflict of interest, demands that the underlying action be dismissed and that this Court issue a Writ of Prohibition requiring the same. The inherent conflict of interest that exists among Respondents is clear and obvious and is so overwhelming as to be patently immoral and intolerable in a civilized society.

Time is of the essence in this matter. There exist no alternative remedies in judicial process to meet the exigencies of Petitioner's circumstances.

POINT I

THE SUPREME COURT OF FLORIDA DOES NOT HAVE CONSTITUTIONAL AUTHORITY TO FILE SUIT IN ONE OF ITS OWN INFERIOR FLORIDA CIVIL COURTS.

The Florida Supreme Court has no constitutional authority to file suit against any person or entity for any reason, much less to file suit in its own inferior courts. It is axiomatic that there must be an express grant of

authority for a government agency to have the legal power to do an act. There is no such grant of authority applicable to the Florida Supreme Court when it comes to the issue of standing to file suit. In fact, the opposite is true. Such authority is expressly vested in the Attorney General. Absent constitutional authority, the case should have been dismissed for lack of jurisdiction ... but it wasn't.

The Florida Supreme Court has no authority to be a party to a suit or to sue Florida Citizens in its own inferior courts! The inferior state civil court lacks the authority to grant any relief sought by Florida citizens against its superior court, the Supreme Court of the State. It lacks jurisdiction. Furthermore, as mentioned before, if such relief were to be granted (or if the relief requested by the Florida Supreme Court were denied) to whom would the Supreme Court of Florida appeal? Itself! When the Florida Supreme Court becomes a party to an action through its administrative arm, The Florida Bar, all due process, equal protection of law and court access for the redress of grievances fly out the window for Florida Citizens.

Under the Florida scheme, the Florida Supreme Court makes the rules, defines the terms, prescribes punishment (legislates), then interprets its own rules and supervises and disciplines those it appoints to administer its own system. The Court, in effect, assumes dictatorial power. It is legislator, administrator, judge and enforcer.

The Florida Bar is an official administrative arm and agent of the Supreme Court. On December 6, 1955, the Florida Supreme Court issued an Order adopting an amended rule "completely integrating" The Florida Bar. This amended Rule added very significant language to its Preamble, as follows:

> "... the following principles are expressly adopted by this Court.
> (a) The Florida Bar, a body created by and existing under the authority of this Court, is charged with the maintenance of the highest standards and obligations of the profession of law, and to that end is vested by this Court in the exercise of its inherent powers over the Florida Bar as an official arm of this Court, with the necessary powers and authority." [Emphasis added.]

This clearly establishes the fact that "... The Florida Bar [is] an official arm of [the Florida Supreme] Court." It also establishes the principle that attorneys are part of the Florida judicial system and "officers of its Courts." As such they are subject to its dominion and control.

The Florida Supreme Court, by judicial legislation, created a government-sponsored monopoly of law in this State, The Florida Bar. This entity operates and is controlled by persons, not employed by the State or elected by its citizens, but by private citizens in business for themselves. Therefore, they are not subject to the normal restrictions applicable to state administrative officers or to elected officials. They are subject only to the Florida Supreme Court. They have common membership in their monopolistic professional trade association. All members of the Florida Supreme Court are also attorneys, licensed by themselves and members of the same monopoly. Due to the overwhelming conflict of interest and self-

dealing, the bar and the Florida Supreme Court lack the vision to properly determine or police those who come before the courts.

The Florida Bar owns property, but pays no taxes. It keeps all the money it collects from dues, sale of books and seminars. The Florida Bar pays no income taxes. While it is clearly established as "an official arm of [the Florida Supreme] Court, the Florida Bar refuses to be defined as an "agency" of State government. Thus it avoids Florida's Sunshine Laws. It has it both ways. It is an official arm of the Florida Supreme Court for purposes of adopting and enforcing its monopolistic rules, policies and procedures, but is able to operate in secrecy and without obligation of public disclosure or discourse. While ostensibly being independent, it has been "anointed" - "vested by this Court in the exercise of its inherent powers over the Florida Bar as an official arm of this Court, with the necessary powers and authority." [Emphasis added.]

The inherent conflict of interest and self-dealing engulfing the Florida Supreme Court, the Florida Bar and the entire process pertaining to the Unlicensed Practice of Law ("UPL") system of regulation, the Florida Supreme Court has eliminated any possibility of due process and fundamental fairness required under the Constitution. This is contrary to this Court's decision in Anderson Nat. Bank v. Luckett (1944), 321 us 233, 246, 88 L.Ed 692, 705, 64 S.Ct. 599, 151 ALR 824, which states:

> The fundamental requirement of due process is an opportunity to be heard on such notice and proceedings as are adequate to safeguard the right for which the constitutional protection is invoked.

The Florida Supreme Court has no authority to sue a Florida Citizen in its own court! It is obvious that the Florida Supreme Court can not delegate authority which it does not have in the first instance, either to its own administrative arm or to an inferior court. A sate civil or appellate court can not beg, request, move, or order the Supreme Court to do anything. The action defies all constitutional jurisprudence and common sense. The law must be restored by the issuance of a Writ of Prohibition against Respondents, who are so clearly and purposefully in violation of the United States and Florida Constitutions and the Common Law.

POINT II

THE RULES OF SUPREME COURT OF FLORIDA GOVERNING THE PRACTICE OF LAW ARE INVALID, BECAUSE THEY WERE ADOPTED PURSUANT TO AN UNCONSTITUTIONAL DELEGATION OF AUTHORITY BY THE COURT'S OWN LICENSED AGENTS, IN VIOLATOIN OF THE SEPARATION OF POWERS PRESCRIBED BY THE FLORIDA CONSTITUTION.

Article II, Section 3 of the Florida Constitution states:

> The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches, unless expressly provided herein. [Emphasis added.]

The very essence of the "Separation of Powers" is to limit in every possible way conflicts of interest of persons who stand to gain personally, privately or financially for themselves or persons or entities with whom they have an interest, by participating in two or more branches of government

simultaneously and/or usurping the system of checks and balances to the detriment of the People. As officers of the court, attorneys are clearly agents of the judicial branch of government. As legislators, attorneys also serve the legislative branch. This fundamental breach of the separation of powers is simple enough for the average fifth grade public school student to understand. However, it is ignored by the very men and women elected, appointed and sworn to uphold the Florida and United States Constitutions. There is no more obvious evidence of the total disregard for this fundamental principle of government than in legislation where the Legislative Branch purports to vest law-making and enforcement authority in the Judicial Branch of Government. This is a total abrogation of the legislative duty to scrutinize and restrain the acts of the sister branch of Government. Where is the only place where this is attempted? It is in the regulation of their own monopoly, the practice of law! The thing speaks for itself! This conduct MUST be enjoined to preserve justice and morality for the PEOPLE who work daily to abide by the law while those pledged on their sacred honor to uphold it violate it freely and openly!

Furthermore, Respondent Florida Supreme Court, claims authority to prosecute Petitioner pursuant to Chapter 10 of the Rules Regulating the Florida Bar. The Florida Supreme Court is overreaching with its interpretation of Article V, Section 2(a) and 15 by attempting to "police" the non-practice of law and private citizens who are not members of the Florida

bar, who are otherwise operating in compliance with Chapter 454 of the Florida Statutes. Article V, Section 15 of the Florida Constitution states that, "The supreme court shall have jurisdiction to regulate admissions of persons to the practice of law and the discipline of persons admitted." Nowhere does it say that only persons holding such license or subjecting themselves to regulation by the Florida Supreme Court may appear as counsel or "practice law" in the State of Florida. Petitioner is not admitted and has no desire to seek admission and subsequent regulation.

The Florida Supreme Court and its administrative arm, the Florida Bar, have usurped the authority of the other branches of government in violation of the separation of powers doctrine by combining all three functions of government (legislative, executive and judicial) when adjudicating private citizens not members of the Florida Bar and subjecting them to sanctions of the Court's own making. The court makes a rule and has its administrative arm bring suit in one of its own inferior courts to enforce the rule. The outcome is a foregone conclusion. Not surprisingly, the lower court issues an Order ostensibly enforcing the rule and the petitioner is subject to fines and imprisonment of the court's concoction, not "for UPL" but, rather for "contempt." What sophistry!

Only the legislature has the authority to fashion a definition of the practice of law. It has defined professions and occupations in every other field it has determined to need regulation. It should do so with law. It has long been

established in Florida that the practice of law is not a right, but a privilege that the legislature may regulate within its discretion. Fuller v. Watts, 74 So. 2d 676 (Fla 1934). The legislature may not delegate the duty of defining the practice of law. Such an action would violate the non-delegation doctrine determined to be unconstitutional in B.H. v. State, 645 So. 2d 987 (Fla 1994).

The determination of a standard of guilt left to be supplied by the courts or juries is an unconstitutional delegation of legislative power. Cuda v. State 639 So. 2d 22, 24 (Fla 1994), quoting Locklin v. Pridgeon 158 Fla 737, 739, 30 So. 2d 102 (1947). The Rules regulating The Florida Bar are an unconstitutional attempt to usurp authority, a violation of the principles of separation of powers and a monopolistic practice by members of the legal profession. These rules are unconstitutional on their face and MUST be invalidated by this Court.

In addition, by bringing this "civil" action to enforce its rules relating to the Unlicensed Practice of Law, the Florida Supreme Court is denying Petitioner his right to have his guilt established by a jury of his peers beyond a reasonable doubt. The Supreme Court punishes, not for a criminal act, but for civil contempt. It avoids a jury trial in favor of a judicial determination. It employs the civil burden of proof (preponderance of evidence) rather than the criminal standard (beyond a reasonable doubt). If the legislature had constitutionally determined that the unlicensed practice of

law is a crime punishable by fine and/or imprisonment, then the criminal standards, including jury trial and burden of proof, must be applied.

As Mr. Justice Louis Brandeis stated, "Crime is contagious... If the Government becomes a lawbreaker, it breeds contempt for the law."

Respondent, Florida Supreme Court, has no constitutional authority to prosecute an alleged violation of an unconstitutional statute, promulgated by its own licensed agents and fraternal fellows. This Court MUST issue a Writ of Prohibition enjoining this unconstitutional practice of Respondents.

POINT III

THE FLORIDA CONSTITUTION DOES NOT GIVE THE SUPREME COURT OF FLORIDA PROSECUTORIAL AUTHORITY.

The authority to prosecute on behalf of the People rests solely with the Executive Branch of Florida Government. There is NO CONSTITUTIONAL AUTHORITY for the Judicial Branch of Government to bring ANY prosecution in the very courts that make up its very existence. The court has no authority to prosecute the sovereign Citizens who give the court the authority to exist ONLY for the purpose of securing the unalienable rights of the People given them by Almighty God.

Because the Supreme Court of Florida lacks constitutional authority to move as plaintiff in a prosecution against Petitioner, this Court MUST issue a Writ of Prohibition enjoining the unlawful acts of Respondents. This writ should include a declaration that any and all Orders of Respondent Judge, Ho.William A. Wilkes, are now and have always been NULL AND VOID.

POINT IV

AS FULLY PROTECTED SPEECH UNDER THE FIRST AMENDMENT, LEGAL ADVICE IS NOT SUBJECT TO GOVERNMENTAL REGULATION.

Legal advice has been held by this Court to be "fully protected speech." In Board of Trustees, State Univ. of NY. v. Fox, 492 U.S. 469 (1989), Justice Scalia determined that legal advice is not commercial speech, but rather is entitled to the higher degree of protection given fully protected speech. Once speech is determined to be fully protected under the First Amendment, any regulation of that speech is presumptively unconstitutional.

Under this test, regulation limiting this type of speech to a small group of people who are licensed by the State must be declared unconstitutional. Attempts to restrict to a small group of people those who will be "licensed" to petition the government for redress of grievances must be declared unconstitutional.

Unauthorized practice of law restrictions arise from two sources: 1) legislation purportedly passed under a State's police power to protect consumers; and 2) the inherent powers doctrine under which courts assert an alleged right to control who practices law.

The State's police power may only impact on fully protected speech when there is a compelling state interest at stake, and then only in the least restrictive way necessary to further that interest. Several comprehensive academic studies have reported the virtual absence of any evidence that consumers are harmed by the unauthorized practice of law. See for

example, Rhode, Authorized Practice, Vol. 34:1, Stanford Law Review, and Christensen, The Unauthorized Practice of Law; Do Good Fences Really Make Good Neighbors, or Even Good Sense, American Bar Foundation Research Journal (Spring 1980). However, even assuming a compelling state interest in regulating who can give legal advice, unauthorized practice statutes work the very opposite of the least restrictive means approach. All information that lawyers consider "legal" is treated as legal advice.

The inherent power doctrine does not justify this regulation. Suppose a state supreme court became concerned about the rapid deterioration of the state's justice system and issued an emergency rule requiring each court to appoint the most capable lawyer as the provider of legal advice regarding litigation in that court. If this type of government control over access to information were constitutional, any branch of government could easily and effectively criminalize virtually all political speech. There is no logical difference between appointing one individual to provide legal advice and appointing a relatively small group (lawyers) to do the same thing, especially when most people can't afford lawyers and many others don't want to use them.

Locking up legal information in the hands of a small government-sanctioned group has had an extremely negative effect on our society. Information is the lifeblood of a democracy, especially information about how to access and use the government itself. The freer such information flows, the better democracy works. Blockages in the information pipeline, on the other hand

tend to unfairly concentrate power in the hands of the privileged. This is the rationale that the U.S. Supreme Court used in the commercial speech case of Bates v. State Bar of Arizona, 433 U.S. 350 (1977) to strike down blanket bans on lawyer advertising. The case against UPL laws that throw an all-encompassing blanket over fully protected speech, such as legal advice, is even more compelling. Because of the way legal information has been controlled by the legal profession, our nation's legal literacy is low. Most citizens do not even know their constitutional rights, a fact the police typically use to gain access to what otherwise would be unlawful searches and seizures. In fact, citizens are made to feel ill at ease when they attempt to assert their constitutional rights. "They must be guilty or they wouldn't have to do so."

According to the ABA, the monopoly over legal advice enjoyed by the legal profession has priced over one hundred million Americans out of our justice system They are forced to represent themselves in increasing numbers. More and more uninformed people are forced to do battle at a disadvantage against those who have the funds to pay members of the "club." This results in an ever-increasing spiral downward toward an unfair judicial system that grants relief only to those who can afford it.

This growth in self-representation has been accompanied by an explosive growth in the self-help law book and software industries and has given rise to a group of people known as legal technicians or independent paralegals

who assist people doing their own cases. It is against these paralegals that the vast majority of these unauthorized practice charges are currently being leveled. This, of course, raises the question as to whether a person handling his or her own case has a First Amendment right to seek information from a source of his or her own choosing? Viewed from this perspective, pro-se litigants are as adversely affected by the UPL laws as are those who wish to provide the legal advice itself.

Although UPL laws clearly and unconstitutionally censor fully protected speech, they have never been challenged on this ground. The initial assumption, mistaken in light of the Fox Case, is always that legal advice is commercial speech. Why is this so? There are many reasons, but two stand out. Probably the most important reason is that many people who think a lot about the First Amendment are lawyers (as advocates and as judges), and lawyers believe that legal information should be tightly controlled for the sake of public protection and the operation of the judicial system. The second reason is a little more subtle. Professional licensing has long been a mainstay of the American regulatory landscape, and it seems inherently as reasonable to regulate the legal profession as any other. Since regulation always implies a border between those who are authorized to practice a profession and those who are not, it seems reasonable to punish people who illegally cross this border.

The problem with this rationale, of course, is that the legal profession is like no other. A major portion of its stock in trade is information about how to access and use a branch of government, a commodity that isn't constitutionally subject to regulation.

An argument could be made that courts have the right to decide who serves as an intermediary between a party and the court, but this argument cannot constitutionally be extended to the direct dissemination of legal information, even though such information might adversely impact the court's operations.

Assuming that the giving of legal advice were deregualted, how could states address the needs of their citizens? There is nothing to prevent the continued government certification of a legal profession, as being qualified to give legal advice. The only difference would be that citizens would have other choices as well. They could choose to engage a "certified" lawyer or to get their advice elsewhere. In this regard, it would be identical to how tax information is handled. Citizens may use a tax lawyer, a CPA, a plain old accountant, a bookkeeper, or a friend.

If the judiciary were truly concerned about its operations, it should make sure it provides enough information. It should make the system "Citizen-friendly" so that citizens can use it without intermediaries if that is their choice. It should simplify its procedures and appoint public advisors to answer questions. In short, the courts should operate in the interests of the public, rather than in the interests of lawyers who control them.

POINT V
FREE EXPRESSION OF RELIGION

The First Amendment to the Constitution says in pertinent part, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; ..." Through the Fourteenth Amendment, this restriction on Governmental Action has been applied to the States. As applied to the petitioner, the Florida law regarding the licensing of attorneys violates this prohibition. Petitioner is a Christian. In the practice of his religion he is compelled to provide assistance to the poor and downtrodden. He is constrained to provide support for the homeless, the hungry and the destitute. When a person who comes to him and needs assistance, his religion requires him to offer it. His Deity demands it! This is the situation which the Florida Supreme Court is trying to prevent. The Court is not saying that petitioner is not competent or that he does not know and will not follow the law. Nor is it saying that he will not dutifully and professionally advocate the case of the accused. It is simply saying that he can't do it. Why? Because he is not a member of that select club of people who have voluntarily placed their "professional licenses" and careers, their livelihoods and their personal fortunes in the hands and under the control of the court, rather than the Creator. By prohibiting petitioner's ability to come to the aid of those in need of assistance with the legal process, the State is interfering with his exercise of his religion.

POINT VI
RIGHT TO COUNSEL

The laws pertaining to the licensing of attorneys violate the Constitutional rights of defendants in criminal prosecutions. Requiring the accused to select only from a government-regulated pool of "approved" people, substantially impairs the ability of the accused to have the benefit of competent counsel. Forcing Citizens to use Government-sanctioned "attorneys" rather than "Counsel" of their choice is not the answer. It simply compounds the problem. The experience of many disenfranchised citizens simply assures that there will be an insurmountable barrier to communication that assuredly prevent them from making a meaningful contribution to their own defense.

The Sixth Amendment to the Constitution says in pertinent part, "In criminal prosecutions, the accused shall enjoy the right to ... have the assistance of Counsel for his defense." This does not say State-licensed attorney, subject to discipline by the State, if he or she doesn't behave. It says "Counsel for his defense." Yet the Government has chosen to deny the accused the right of choice and force him to use an attorney who is beholden to the State for his very livelihood.

A growing number of disenfranchised Citizens don't see their government as representing them or anything they hold dear. Throw out prayer in school. Distribute condoms free to children. Permit, even encourage, abortions. Prevent parents from knowing of or having a say in whether their teenage

daughters have abortions. Use taxpayer money to pay for them. Take George Washington's name off schools, because he owned slaves. Discard holidays honoring Lincoln and Washington and replace them with ones in favor of Martin Luther King, Jr. and the "Presidents." Adopt rules and regulations that protect the lives of snail darters, frogs, turtles and all sorts of other species, yet fail to provide for the welfare or the common good of the People of the United States. Arrest and prosecute a citizen for exercising her First Amendment Right to Free Speech, if she calls the President a name. Arrest her husband simply for being married to her. Conduct Congressional witch hunts based, not on evidence, but on the "seriousness of the charge." Deliver hundreds of FBI files on American citizens to political operatives in the White House. Slaughter men, women and children in Waco, Texas to prevent "child abuse." Take guns out of the hands of law-abiding citizens in spite of the Second Amendment. Just leave the guns to the criminals ... and to the government.

An increasing number of citizens see free speech and press rights given only to those who agree, those who are "politically correct." Others are punished. Minorities given preferential treatment because over a hundred years ago some person thousands of miles away from their ancestors owned slaves. It doesn't matter that their particular ancestors had not even immigrated to the United States at that time. It doesn't matter that the person who is being preferred and his ancestors were never slaves. It

doesn't even matter if the Citizen's ancestors laid down their lives fighting for the cause of freedom from slavery. These people and their children know that this makes no sense, but it is what is going on. They resent it. They "rebel" against it. What happens to them, if they have the will not to be intimidated? Look at Citizens who have set up "Constitutional" or "Common Law" courts and have had the temerity to try to remind their own representatives of their Constitutional duties. The Government prosecutes them on trumped up charges, sequesters the jury, not only from the media, but from the defense as well. (And this is a "fair trial" in America today?)

The distrust these people have for the Government is exascerbated by the violent reaction of those in authority to their protests: seizures of their property, murders of women and children, wholesale slaughters of citizens protesting against what they believe to be illegal and unconstitutional activities of their Government and more.

The Executive Branch lies openly, obfuscates constantly, prosecutes the innocent who have the nerve to disagree. The Executive branch appears to be out of control. Under our system of checks and balances, when the Executive Branch goes out of control, there are two other branches that are supposed to check and balance them. Yet when these citizens turn to the Legislative Branch, what do they see? Congress has repeatedly avoided its Constitutional duty, consistently passed the buck to some regulatory agency or commission. Congress enacts an ever increasing series of laws intruding

into private lives. The Internal Revenue Code has thousands and thousands of words beyond the ability of any normal person to comprehend. Even lawyers and accountants don't understand it without specialized training. Even then, there is disagreement and confusion. (Ignore the Congress that passes laws for the Country and exempts itself. Disregard the Congress that uses the Congressional Post Office and the House Bank as personal money laundering and check kiting operations.)

Congress repeatedly abrogates its legislative authority by delegating it to the Executive Branch. The IRS, the EPA, the Securities and Exchange Commission, the FTC, the FDA, etc., etc., etc. All of these "administrative agencies" are vested with power and authority to regulate the lives of citizens and do so in ever-increasing and intrusive ways incapable of being understood or interpreted, unless you are an insider, an "attorney" who specializes in the particular area, who is a member of the right "club."

These Americans know from somewhere deep inside them, from a memory of the Constitutional system they learned in school that, if a law is worded so that it is not capable of being understood by the average person, if it is vague or overbroad, then the courts are not supposed to enforce it. Yet time and again they see the courts not only uphold the incomprehensible Internal Revenue Code, but the thousands and thousands of pages of Regulations, Rulings and Procedures devised by the IRS and numerous other agencies.

These Americans remember, from somewhere deep within themselves, the principle that, once a court has ruled on a point of law, it becomes the law of the land. We who work with the law call this stare decisis. Yet the Internal Revenue Service simply publishes a letter of "Non-acquiescence" and overturns that basic principle of the law. They see the Internal Revenue Service abolish (with the courts' help), the presumption of innocence until proven guilty. The courts approve IRS seizures of property without due process of law. They hear testimony in Congress where IRS agents admit targeting the average citizen, simply because the Government knows that most of them don't have the money or the ability to fight. They see other government bullies do the same thing! The Government has become a bully, abusing its own citizens. (The courts are the willing accomplice.)

One might look at the IRS as an isolated incident, but that is not the case. Environmental laws have thrown good, hard-working people out of work. They have been expanded well beyond their illogical conclusion (BY THE COURTS). Why we are now even told by some regulator in Washington, how much water may be permitted to flow through our toilettes.

RICO acts authorize Government seizures in advance of a conviction of a crime. By this mechanism, the Government is perceived as depriving the citizen of the financial wherewithal to defend himself or herself. How can I pay to defend myself, if all my property is seized by the government. Why, we now even have courts telling us that the term "Navigable Waterways of

the United States" does not refer to waters on which someone can navigate, it means water that moves! To these citizens it seems that the lunatics have taken control and are running the asylum.

"Special prosecutors" spend tens of millions of dollars of taxpayer money on witch hunts, forcing citizens to incur millions of dollars of legal bills, virtually bankrupting them, simply to defend themselves against political attack.

Repeatedly, Congress has unconstitutionally abrogated its authority. It has delegated it to regulators who are career bureaucrats, protected in their jobs (with the court's help!) against accountability. They don't have to account to the people. They simply take whatever action will increase their power base. Think about it for a minute, these workers, these employees of the people, can't be fired without due process. Explain to the hundreds of thousands of people who have lost their jobs why government workers are protected, but they are not!

By removing the lawmaking process from the open forum of Congress, where it belongs and placing it in the halls of the regulators, Congress has created a situation where the average citizen can not possibly keep up with what is going on. Congress, whose job it is to pass the laws, can't keep up with the ever-expanding body of regulation. How can the people?

Sunshine laws and other rules that say there must be open hearings are not enough. Hearings are held at the convenience of the bureaucracy. They are

not held at times when average citizens could actually attend, if they had the time or the inclination to do so. These laws are perceived by those upon whom the law is treading as just so much window dressing. They are like so many other government programs. They look good and make excellent 30 second sound bites, but they lack substance and they do far more harm than good.

In the face of this over regulation, these Americans see other things as well. They see the FBI used by the White House for obviously political purposes. The FBI and the ATF repeatedly violate the rights of protestors. The Justice Department ignores evidence of illegal Foreign contributions to and influence on United States elections and many other clearly illegal acts. Yet comes down increasingly hard on their friends and neighbors. They hear regulators repeatedly admit that they target the middle class. They leave the rich and the poor alone. The small business owner, the mom and pop store the hard working person who has something to lose but insufficient funds to defend against the government's attack are the targets most often selected. They see a government running amok

Thank goodness we still have the Judicial Branch. However, when Citizens look at the courts, what do they see? They see 40+ years of judicial activism. They see courts that have usurped the legislative authority vested in Congress. They see that time and again courts torture the plain and simple meaning of the Constitution and the English language in order to

achieve a result. All the while the Executive and Legislative branches have been abusing or abrogating their power, the Judiciary has been a willing accomplice. The courts, including this Court, have rationalized, justified and just winked at the steady theft of the rights of Americans. Many people just don't trust the system any more.

Those who have come in contact with the judicial system see the corruption throughout it. Police officers lie on the stand and get away with it. The government fabricates evidence and gets away with it. There is always the exception, but almost invariably they involve an individual who has millions of dollars to pay for defense. Those who have been forced because of finances to use the services of a public defender have personally seen how their rights are not protected. *These government-paid attorneys just push* the paper through. They perceive that these court-appointed insiders make their living "on the court's dole" by "getting along" with the prosecution. They recognize that they really don't have a chance.

It would be bad enough if it were just the United States Government that is out of control, but that is clearly not the case. State governments are frequently just as bad. Often they're worse. Even when they can afford an "attorney" they are not truly adequately represented (in their minds). The very attorney who is representing them is pledged to follow rules and procedures set up by the very establishment he feels is persecuting him. The attorney's livelihood is dependent on the continued good graces of the

judicial system. If he "goes too far" if he challenges the system too much, he may find himself and his license jeopardized. "Bar licensed" attorneys are subject to discipline and therefore the control of the very system that is persecuting him. This cuts to the very trust that is basic to the Constitutional right to representation by counsel.

Without a modicum of trust, there can be no real communication between the accused and his counsel. Without open and effective communication, the accused can not effectively participate in his defense. This makes representation by counsel illusory.

Court imposition of a licensing requirement on individuals these people turn to for help does not solve the problem. As soon as someone has subjected himself or herself to the licensing of the State, has place his or her livelihood and future in the hands of the Government, that person is no longer to be trusted. Faced with these realities defendants frequently turn to clergy, such as petitioner, and others in whom they have confidence, if only because they have not subjected themselves and their future livelihood to the whim of the system that is prosecuting them. They trust their clergy. They trust their counsel. They communicate openly with them. Because of this they can be helped.

The laws of any State that seek to penalize clergy and others who offer counsel to the accused effectively deprive the accused of the right to be represented by counsel and should be declared invalid in a criminal

proceeding. The Florida Supreme Court should be ordered to cease and desist prosecution of petitioner and all others similarly situated within that State.

CONCLUSION

The Respondents are denying honest government services to Florida citizens by ignoring the separation of powers doctrine and circumventing the critical checks and balances this democratic principle establishes. Citizens are being denied due process of law, equal protection of law, freedom of speech, the right of free exercise of their religion and their right to be represented by counsel in criminal matters. All of these inalienable rights granted by the Federal and State Constitutions are being abridged by the Court's usurpation of power outside its jurisdiction. This behavior is contrary to the intent of the framers of the U.S. Constitution, as well as the Florida Constitution. During the constitutional convention of 1787, James Madison wrote:

> No political truth is of greater intrinsic value... The accumulation of all powers, legislative, executive, and judiciary in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the definition of tyranny.

Alexander Hamilton and Thomas Jefferson had very different opinions on the matters but were of one mind on this. Hamilton wrote:

> Give the power to the many and they will oppress the few. Give all the power to the few and they will oppress the many. But ought therefore to have power so that each may defend itself against the other.

Jefferson was more precise and said:

> An elective despotism was not what we fought for, ... but one in which the powers of government should be so divided and balanced, ... that no one could transcend the legal limits without being effectively checked and restrained by the others.

For the foregoing reasons, petitioner moves that the relief requested herein be granted.

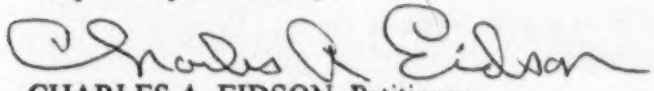
Petitioner being "without" the Federal United States [28 U.S.C. 1746] and a sovereign Citizen of a state republic, makes the following attestation in keeping with his beliefs, as he understands the Word of The Deity:

Verification by Asservation

In Witness, Knowing the law bearing false witness before almighty God and Men, I solemnly aver that I have read the foregoing Petition for Writ of Prohibition and know the contents thereof; that the same is true of my own knowledge.

Sealed by voluntary act of My own hand this day of April, 1998.

Respectfully submitted,



CHARLES A. EIDSON, Petitioner
4013 W. Oklahoma Ave.
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Supreme Court of Florida

THE FLORIDA BAR,
Complainant,

vs.

CHARLES A. EIDSON,
Respondent.

No. 86,514

[November 6, 1997]

PER CURIAM

We have before us the complaint of The Florida Bar and a referee's report regarding the unlicensed practice of law by respondent Charles A. Eidson. We have jurisdiction. Art. V, § 15, Fla. Const.

The Bar filed a one-count petition in 1995 alleging that Eidson, a person unlicensed to practice law in Florida, engaged in an act of practicing law. The petition alleged the following. Eidson told Norma Martin, who had contacted him in reference to handling a traffic violation, that it was illegal for police to use aircraft to apprehend speeders. Ms. Marlin paid Eidson $100 to help her have the traffic violation dismissed. Eidson told Ms.

Martin that although he does not use the title of attorney or lawyer, he did study to become a lawyer and does practice law but does not belong to The Florida Bar because of the fees. Eidson prepared and filed with a court clerk's office a "Demand for Formal Hearing," "Memorandum of Points and Authorities," and "Demand for Formal Administrative Hearing to Establish Record for Review." Eidson signed Ms. Martin's name on the documents and sent her copies along with a bill for $38 for overnight mail. On August 25, 1994, Ms. Martin received a notice of administrative hearing and a notice that her driver's license had been suspended. Ms. Martin contacted Eidson, who sent a man named Tom to appear with her at the court clerk's office. Shortly thereafter, Eidson assured Ms. Martin he had taken care of her ticket. In December 1994, Ms. Martin received another notice that

EXHIBIT "A"

her license had been suspended. She paid $115 for her speeding ticket plus $56 to have her license reinstated. She received points against her license that she could have avoided by attending a driver improvement class if she had not been under the erroneous impression that Eidson had taken care of her ticket. She also incurred long distance charges of at least $50 for calls to Eidson.

This Court entered orders to show cause why the respondent should not be enjoined from the unlicensed practice of law and to appoint a referee. The referee's report was filed on April 21, 1997. Having considered the pleadings and the evidence, the referee recommended that Eidson be restrained and enjoined from engaging in the acts complained of in the petition and from otherwise engaging in the practice of law in Florida until such time as Eidson is duly licensed to practice law in this state.

A referee's findings of fact are presumed correct and will be upheld unless clearly erroneous and lacking in evidentiary support. Florida Bar v. Seldin, 526 So. 2d 41, 43-44 (Fla. 1988). The party seeking review in a proceeding concerning the unlicensed practice of law has the burden of showing that the referee's findings are clearly erroneous or unsupported by the record. Florida Bar v McClure, 575 So. 2d 176, 177 (Fla. 1991). Unless that burden is met, the referee's findings and recommendations will be upheld on review. Florida Bar v. Hughes, 697 So. 2d 501 (Fla. 1997).

In this case, the referee found each allegation set forth in the Bar's petition to be proven by clear and convincing evidence. Eidson has not met his burden of showing those findings to be clearly erroneous or unsupported by the record. Therefore, we find that the referee's findings of fact and determination of guilt are supported by competent, substantial evidence. Florida Bar v. MacMillan, 600 So. 2d 457 (Fla. 1992).

Additionally, we approve the referee's recommendation of an injunction to prevent Eidson from representing individuals in legal matters and preparing or filing legal documents on anyone else's behalf until he is licensed to do so. We

also approve the referee's recommendation to require payment of costs of the proceedings.

Accordingly, respondent Charles A. Eidson is enjoined from engaging in the practice of law in Florida until he is duly licensed to practice law in this state. Costs in the amount of $2,406.14 are hereby taxed against Eidson, for which sum let execution issue.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW, GRIMES, HAPDRNG, WELLS and ANSTEAD, JJ., concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Original Proceeding – The Florida Bar

Edward R. Blumberg, President, Miami, Florida; Howard C. Coker, President-elect, Jacksonville, Florida, John F. Harkness, Jr., Executive Director, John T. Berry, Staff Counsel and Mary Ellen Bateman, Unlicensed Practice of Law Counsel, Tallahassee, Florida, John A. Yanchunis, Chair, Standing Committee on Unlicensed Practice of Law, St. Petersburg, Florida, and Loretta C. O'Keeffe, Branch UPL Counsel, Tampa, Florida,

for The Florida Bar, Complainant

Charles A. Eidson, pro se, Tampa, Florida,

for Respondent